THE HON'BLE SRI JUSTICE B.CHANDRA KUMAR

M.A.C.M.A.No.142 of 2005
Date: 26-11-2013

JUDGMENT:

This appeal is directed against the award dated 11.08.2013 passed by the Motor Accident Claims Tribunal-cum-II Additional District Judge, Nalgonda, in O.P.No.184 of 2000, wherein and whereby, the Tribunal awarded a compensation of Rs.72,500/-.

The parties hereinafter referred to as arrayed before the Tribunal.

The brief facts of the case are as follows:

The claimant is injured. He is working as a Government Teacher. On 07.07.1999 at about 7.30 P.M., he was proceeding on a scooter from Halia to Tirumalagiri along with his friend. When the said scooter was proceeding on the left side of the road, one Hero Honda Motor bike bearing No.AP 13A 2848 being driven by its rider in a rash and negligent manner at high speed came and dashed against the scooter. The claimant and his friend sustained injuries. They were shifted to Kamala Nehru Hospital, Nagarjunasagar. From there, they were shifted to Kamineni Hospital, Hyderabad, where an operation was conducted to his right thigh and steel rod was fixed. As the injury was not properly healed, the petitioner underwent another operation in Kamineni hospital, Narketpally. Again he underwent operation in Dr.Muralidhar Hospital at Miryalguda, where fresh rod was fixed.

The claimant initially claimed compensation of Rs.1,25,000/-, subsequently enhanced to Rs.2,00,000/- against the 1st respondent-owner and 2nd respondent-insurance company, which Hero Honda bike was insured.

The Tribunal framed the issues and issue Nos. 1 and 2 are answered in favour of the claimant. On Issue No.3, the claimant awarded compensation of Rs.72,500/-.

Aggrieved by the same, this appeal is filed.

The main contention of the learned counsel for the appellant is that no amount is awarded towards future medical expenses and loss of income during the period of treatment. It is also submitted that the Tribunal has not considered EXs A11 and A12 in awarding compensation for medical expenses and further wrongly deducted the amount paid towards medical reimbursement. He relies on the judgment of the Apex Court in **Subulaxmi v. M.D., Tamil Nadu State Transport Corporation**[1] in support of his contention. It is also his submission that compensation for permanent disability and loss of future earnings have to be awarded separately. It is also submitted that the compensation awarded by the Tribunal for pain and suffering is also meagre.

The only point that arise for consideration is:

"Whether the claimant is entitled for enhanced amount?"

The fundamental concept of granting compensation to the

injured is that the Tribunal should be liberal since the law values life and limb, of course the award should be balanced taking into consideration of the facts and circumstances of the case. In this case the claimant suffered fracture of his left thigh in the accident. He was shifted to a private hospital at Halia where first aid was given. Then he was shifted to Kamala Nehru Hospital, Nagarjunasagar. From there, he was shifted to Kamineni Hospital, Hyderabad, where he was treated as in-patient for about one month, underwent operation and steel rod was fixed in his left thigh. Even after discharge from the hospital, he was again operated at Kamineni Hospital at Narketpally. He underwent treatment in Dr.Muralidhar Hospital at Miryalguda where fresh rod was fixed. He was on medical leave for about 60 days. It is also his case that there is a shortening of his leg by half inch. He was advised to undergo another operation for removal of steel rod. It is to be considered whether the claimant suffered fracture to his right femur but also underwent operations twice and ultimately resulted in shortening of his leg. The pain and suffering undergone by him while he was operated twice was not taken into consideration by the Tribunal.

In the above circumstances, I consider it just and reasonable to award an amount of Rs.25,000/- towards pain and suffering i.e. **Rs.20,000/-** in addition to the amount already awarded towards pain and suffering.

It appears that the claimant was advised to undergo another operation and the future medical expenses is estimated at Rs.20,000/-. There is no evidence to disbelieve the version of the

claimant in this aspect. Accordingly, an amount of **Rs.20,000/-** is awarded towards future medical expenses. Ex.A4 is the copy of the injury certificate, Ex.A13 is bunch of X-ray films numbering 20, Ex.A8 is the disability certificate issued by the Medical Board, Nalgonda, Ex.A11 is the bunch of medical bills incurred in Kamineni Hospitals for Rs.96,374-99, Ex.A12 is the medical bills for Rs.4,426/-, Ex.A14 is the order of medical reimbursement for Rs.38,564/-. Thus, an amount of Rs.62,236.99 is awarded towards medical expenses, which is rounded to **Rs.62,237/-**.

It appears that the claimant was on medical leave for about 65 days. Ex.A9 is the salary certificate, which show his basic salary at Rs.4,070/- and D.A at Rs.899/-, total Rs.4,969/-. In the circumstances, the claimant is awarded an amount of **Rs.10,000/-** towards loss of earnings. Thus, the claimant is entitled for enhanced amount of Rs.1,12,237/- with interest at 6% p.a. This amount is in addition to the amount already awarded by the Tribunal i.e. Rs.72,500/-. Thus, the total amount of Rs.1,84,737/- is awarded to the petitioner towards compensation.

Accordingly, the M.A.C.M.A. is allowed. No costs.

Consequently, Miscellaneous Petitions, if any, pending in this Civil Miscellaneous Appeal, shall stand closed.

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(B.CHANDRA KUMAR, J)

Date: 26-11-2013
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[1] 2013(1) ALD 68 (SC)